

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:08-CV-173-H


GARY JOSEPH STODDARD and his)
wife PATRICIA ANN STODDARD,)
)
 Plaintiffs,)
)
)
 v.)
)
)
PLIVA USA, INC.,)
)
 Defendant.)

ORDER

This matter is before the court on defendant's motion to stay, filed January 5, 2011 [DE #97]. Currently pending before this court is a motion to dismiss in which defendant argues that plaintiffs' claims are preempted by the Drug Price Competition and Patent Term Restoration Act, which governs the manufacture and marketing of generic pharmaceutical drugs in interstate commerce. On December 10, 2010, the United States Supreme Court granted certiorari in three cases involving the preemption issue raised by defendants. See PLIVA, Inc. v. Mensing, No. 09-993 (U.S. cert. granted Dec. 10, 2010); Actavis Elizabeth LLC v. Mensing, No. 09-1039 (U.S. cert. granted Dec. 10, 2010); Actavis, Inc. v. Demahy, No. 09-1501 (U.S. cert. granted Dec.

10, 2010). Those cases have been consolidated and are presently scheduled for oral argument before the Supreme Court on March 30, 2011. The parties agree that the Supreme Court's decision in those cases will likely have a direct impact on this case. With the parties' consent and in an effort to promote judicial efficiency, the court GRANTS defendant's motion [DE #97] and hereby STAYS all further proceedings in this action pending the Supreme Court's decision in the aforementioned cases.

This 10th day of January 2011.

A handwritten signature in black ink, appearing to read "Malcolm J. Howard", is written over a horizontal line.

MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
#31